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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,338	12/15/2000	Steven Michael French	AUS9-2000-0458-US1	9179

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EXAMINER

VU, THONG H

ART UNIT PAPER NUMBER

2142

DATE MAILED: 05/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/737,338

Applicant(s)

FRENCH ET AL.

Examiner

Thong H Vu

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. Claims 1-21 are pending.

***Claim Rejections - 35 USC § 112***

2. Claims 1,6,8,13,15 and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.(i.e.: sending the modified result to the requesting client node. There is no detail where, when, how a requesting client node comes from and connect to what ?)
3. Claims 1,6,8,13,15 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention (i.e.: sending the modified result to the requesting client node. There is no detail about the relationship between a requesting client node to the first and second nodes).

***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim(s) 1-37 of patent # 6,546,365 B1 contain(s) every element of claim(s) 1-21 of the instant application and as such anticipate(s) claim(s) 1-21 of the instant application.

"A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or **anticipated by**, the earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus). " *ELI LILLY AND COMPANY v BARR LABORATORIES, INC.*, United States Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-21 are rejected under 35 U.S.C. § 102(b) as being anticipated by

Kleinman et al [Kleinman 5,724,503]

6. As per claim 15, Kleinman discloses a system for managing results in a locale independent manner in a multi-node networked data processing system, the system comprising:

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first means for sending, from a first node (i.e.: a source node, client node), a command request to a second node (i.e.: a destination node, server node) , wherein that command request contains a command and a locale in which the text of the result is desired [Kleinman, a distributed object system that communicates through an ORB, wherein an identifier can be used derive an exception tag which locate the host file, col 5 lines 30-42, 47-col 6 line 6,45-67];

second means for receiving, on the first node, results of execution from the command request sent, executed on the second node, wherein the result generated from the command request comprises one or more messages, wherein each message contains a unique message identifier, locale in which its associated text is stored, and text associated with the message [Kleinman, message ID message string pair, text string, col 14 lines 44-col 15 line 10];

third means, responsive to a determination that the locale of the message text is in a locale different from a desired locale, for replacing the message text contained within the result with message text corresponding to the desired locale to produce a modified result (i.e.: a translated message text) [Kleinman, a file would be edited to allow a translation, col 11 lines 1-12; modified form, col 13 lines 1-15; it finds a message ID that is equivalent and return the corresponding text string, col 14 lines 44-col 15 line 10]; and

fourth means for sending the modified result to the requesting client node [Kleinman, client have direct access to the message string, col 15 lines 10-22].

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7. As per claim 16, Kleinman discloses fifth means for extending the one or more messages to include a new message [Kleinman, different extensions for a number of foreign translations desired, col 10 lines 19-col 11 lines 60].

8. As per claim 17, Kleinman discloses the command request is a first command request and the results are a first results and further comprising:

fifth means for sending, from a first node, a second command request to a third node, wherein that second command request contains a command and a locale in which the text of the result is desired [Kleinman, a distributed object system that communicates through an ORB, wherein an identifier can be used derive an exception tag which locate the host file, col 5 lines 30-42, 47-col 6 line 6,45-67];

sixth means for receiving, on the first node, results of execution from the second command request sent, executed on the third node, wherein the result generated from the second command request comprises one or more messages, wherein each message contains a unique message identifier, locale in which its associated text is stored, and text associated with the message [Kleinman, message ID message string pair, text string, col 14 lines 44-col 15 line 10];

seventh means for receiving a second result from the third node, wherein the second result comprises a set of messages from a plurality of other nodes and each of the set of messages comprises message text and a message identification [Kleinman, a file would be edited to allow a translation, col 11 lines 1-12; modified form, col 13 lines

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1-15; it finds a message ID that is equivalent and return the corresponding text string, col 14 lines 44-col 15 line 10]; and

eighth means for modifying the one or more messages from the first result and the one or more messages from the second result to produce a hierarchical representation of messages [Kleinman, a file would be edited to allow a translation, col 11 lines 1-12; modified form, col 13 lines 1-15; it finds a message ID that is equivalent and return the corresponding text string, col 14 lines 44-col 15 line 10].

9. As per claim 18, Kleinman discloses ninth means for transmitting the hierarchical representation of messages to the requesting client node [Kleinman, class hierarchy, col 14 lines 1-15].

10. As per claim 19, Kleinman discloses fifth means for receiving a result from the second node, wherein the result comprises a set of messages, wherein at least two of the set of messages are generated by different nodes within a plurality of nodes in the networked data processing system and each of the set of messages comprises message text and a message identification [Kleinman, message ID message string pair, text string, col 14 lines 44-col 15 line 10]; and sixth means for modifying (i.e.: editing, replacing) the set of messages to produce a nested representation of the set of messages [Kleinman, a file would be edited to allow a translation, col 11 lines 1-12; modified form, col 13 lines 1-15; it finds a message ID that is equivalent and return the corresponding text string, col 14 lines 44-col 15 line 10].

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11. Claims 1-5,8-12 contain the similar limitations set forth of apparatus claims 15-19. Therefore, claims 1-5,8-12 are rejected for the similar rationale set forth in claims 15-19.

12. As per claim 20, Kleinman discloses a system for managing messages between nodes in a multi-node networked data processing system, the system comprising:

first means for receiving a set of messages from a node, wherein at least -two of the messages are generated from different nodes and at least two of the messages are in different languages from each other [Kleinman, Corba system with different language, col 6 lines 45-67; col 11 lines 19-32]; and

second means for sending the set of messages to a final calling node without resolving the set of messages, wherein the set of messages are resolved by the final calling node into a locale of a requesting client [Kleinman, server node with ORB contain object 40 and 41, col 7 lines 15-32, Fig 1].

13. As per claim 21, Kleinman discloses third means, prior to sending the set of messages, for adding a message to the set of messages to produce a modified set of messages; and wherein the step of sending the set of messages comprises sending the modified set of messages [Kleinman, a file would be edited to allow a translation, col 11 lines 1-12; modified form, col 13 lines 1-15; it finds a message ID that is equivalent and return the corresponding text string, col 14 lines 44-col 15 line 10].



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14. Claims 6-7,13-14 contain the similar limitations set forth of apparatus claims 20-21. Therefore, claims 6-7,13-14 are rejected for the similar rationale set forth in claims 20-21.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Thong Vu, whose telephone number is (703)-305-4643.

The examiner can normally be reached on Monday-Thursday from 8:00AM- 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Jack Harvey*, can be reached at (703) 305-9705.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9700.

Any response to this action should be mailed to: Commissioner of Patent and Trademarks, Washington, D.C. 20231 or faxed to :

After Final (703) 746-7238

Official: (703) 746-7239

Non-Official (703) 746-7240

Hand-delivered responses should be brought to Crystal Park 11,2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

***Thong Vu***  
***Patent Examiner***  
***Art Unit 2142***

